

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ALEXANDER M.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

CASE NO. C21-254-BAT

**ORDER REVERSING THE
COMMISSISONER'S FINAL DECISION
AND REMANDING FOR FURTHER
ADMINISTRATIVE PROCEEDINGS**

Plaintiff appeals denial of his application for Supplemental Security Income. He contends the ALJ erred by rejecting three medical sources' opinions and his father's lay witness statement. Dkt. 10. As discussed below, the Court **REVERSES** the Commissioner's final decision and **REMANDS** the matter for further administrative proceedings under sentence four of 42 U.S.C. § 405(g).

BACKGROUND

Plaintiff is 31 years old, has a high school education, and has performed skilled and semi-skilled work. Tr. 30-31. He applied for benefits on November 29, 2018. Tr. 19. In October 2020, the ALJ issued a decision finding Plaintiff not disabled. Tr. 19-32. In pertinent part, the ALJ found Plaintiff's severe impairments of schizophrenia and depression limited him to simple, routine work with only superficial contact with coworkers and the public. Tr. 21, 23.

DISCUSSION

This Court may set aside the Commissioner’s denial of Social Security benefits only if the ALJ’s decision is based on legal error or not supported by substantial evidence in the record as a whole. *Trevizo v. Berryhill*, 871 F.3d 664, 674 (9th Cir. 2017).

A. Medical Opinions

Under 20 C.F.R. § 416.920c(b)(2), (c), the ALJ considers the persuasiveness of the medical opinion using five factors (supportability, consistency, relationship with claimant, specialization, and other), with supportability and consistency being the two most important factors. The decision must explain how the ALJ considered the factors of supportability and consistency, 20 C.F.R. § 416.920c(b), and must be supported by substantial evidence.

1. Michael A. Archer, Psy.D.

Dr. Archer treated Plaintiff from February 16, 2017, until January 11, 2018. Tr. 1197. In July 2020, Dr. Archer completed an Assessment of Mental Functioning form and wrote at the top, “This information is only applicable to the time period 2/16/17 to 1/11/2018.” Tr. 1198.

The ALJ noted Dr. Archer’s opinions but stated she did not consider “medical opinion evidence ... specifically noted to be related to ... the period prior to the October 3, 2018 date of the most recent of the unfavorable” determinations on Plaintiff’s prior claims. Tr. 28 n. 1. Plaintiff notes any prior applications and decisions are missing from the record. Dkt. 10 at 5. Regardless of whether prior applications exist, the relevance of Dr. Archer’s opinion depends on circumstances such as how long before the period at issue it addresses and whether there is evidence of intervening worsening or improvement. *See Smith v. Bowen*, 849 F.2d 1222, 1225 (9th Cir. 1988) (“it is clear that reports containing observations made after the period for disability are relevant to assess the claimant’s disability”); *Macri v. Chater*, 93 F.3d 540, 545

1 (“The opinion of a psychiatrist who examines the claimant after the expiration of his disability
2 insured status ... is entitled to less weight than the opinion of a psychiatrist who completed a
3 contemporaneous exam.”).

4 Plaintiff contends the ALJ erred by failing to consider Dr. Archer’s 2020 opinion
5 “because it addressed functional limitations that persisted during the relevant period.” Dkt. 10 at
6 3. However, Plaintiff experienced voluntary and involuntary admissions to in-patient psychiatric
7 treatment, in addition to several medication changes, between the time Dr. Archer treated him
8 and the period at issue. *See* Tr. 24, 381-82, 434-39. Under the circumstances, the ALJ
9 reasonably concluded Dr. Archer’s opinions were not helpful in assessing the period at issue
10 here. The Court accordingly concludes the ALJ did not err by declining to consider Dr. Archer’s
11 opinions.

12 **2. Mary Bartels, M.D.**

13 In February 2019, Dr. Bartels filled out an Assessment of Mental Functioning form,
14 opining Plaintiff was markedly limited in interacting with others and adapting or managing
15 himself. Tr. 608-09. She opined it was “doubtful” Plaintiff could maintain full time
16 employment “because of his severe paranoia.” Tr. 609. In July 2020, Dr. Bartels completed
17 another form, opining Plaintiff relied on treatment or structured settings to diminish his
18 symptoms, and he had a minimal capacity to adapt to changes in his environment. Tr. 1204.

19 Plaintiff concedes the ALJ permissibly discounted the portions of Dr. Bartels’ opinions
20 addressing the ultimate issue of disability. Dkt. 10 at 8. However, Plaintiff contends the ALJ
21 erred by discounting Dr. Bartels’ opinions of specific functional limitations. *Id.* The ALJ found
22 Dr. Bartels’ opinions unsupported by explanation or her treatment notes, and inconsistent with
23 the medical evidence and Plaintiff’s activities. Tr. 29.

1 **a) Medical Evidentiary Support**

2 The Commissioner argues the only explanation Dr. Bartels provided on the opinions
3 forms was “severe paranoia.” Dkt. 11 at 6. However, it is error to reject “opinions expressed in
4 check-box form [when they] were based on significant experience with [the claimant] and
5 supported by numerous records.” *Garrison v. Colvin*, 759 F.3d 995, 1013 (9th Cir. 2014).

6 The Commissioner argues Dr. Bartels’ treatment notes did not support her opinions. He
7 points to Plaintiff’s and his family’s report he was “much improved” in November 2018. *See* Tr.
8 589. However, Plaintiff’s improvement was relative to a recent involuntary hospitalization based
9 on danger to others. Tr. 589. “That a person who suffers from severe [mental symptoms] makes
10 some improvement does not mean that the person’s impairments no longer seriously affect her
11 ability to function in a workplace.” *Holohan v. Massanari*, 246 F.3d 1195, 1205 (9th Cir. 2001).
12 Nothing in the record suggests Plaintiff improved to such a degree as to contradict Dr. Bartels’
13 opinions.

14 The Commissioner also points to periodically normal mental status examinations in Dr.
15 Bartels’ treatment notes, but acknowledges frequent abnormal results such as paranoia,
16 hallucinations, irritability, and poor insight. Dkt. 11 at 6-7. As the Ninth Circuit has
17 “emphasized while discussing mental health issues, it is error to reject a claimant’s testimony
18 merely because symptoms wax and wane in the course of treatment. Cycles of improvement and
19 debilitating symptoms are a common occurrence, and in such circumstances it is error for an ALJ
20 to pick out a few isolated instances of improvement over a period of months or years and to treat
21 them as a basis for concluding a claimant is capable of working.” *Garrison*, 759 F.3d at 1017.
22 In approximately monthly visits during the relevant period, about half of Dr. Bartels’ treatment
23 notes reflect normal mental status examination findings and about half reflect abnormalities,

1 especially paranoid thought content and guarded attitude. *See* Tr. 582-602, 631-51, 1115-41.
2 These serious abnormalities supported Dr. Bartels' opinion Plaintiff had serious limitations in
3 interacting with others and adapting himself "on a sustained basis." Tr. 607. Substantial
4 evidence does not support the ALJ's finding Dr. Bartels' opinions was unsupported by her own
5 treatment notes.

6 The ALJ also found Dr. Bartels' opinions contradicted by other medical evidence. Tr.
7 29. In November 2018, Plaintiff's primary care provider, Sadia Habib, M.D., recorded
8 Plaintiff's reports he was doing "much better" and found "[n]o evidence of mood disorder." Tr.
9 575-76. However, this improvement was shortly after Plaintiff's involuntary hospitalization for
10 nearly a month due to danger to others. *See* Tr. 575. And Plaintiff's schizophrenic disorder
11 involves not just mood symptoms, but psychosis, or loss of contact with reality, as evidenced by
12 the paranoia and delusions documented by Dr. Bartels. The Commissioner also points to
13 treatment notes showing Plaintiff was alert and cooperative with appropriate speech, behavior,
14 mood, and affect. *See* Tr. 615, 619-20, 1098. These findings do not contradict Dr. Bartels'
15 opinions of serious limitations based on psychotic symptoms.

16 The ALJ also noted Dr. Bartels assessed Plaintiff as "stable" on medication at times, and
17 Plaintiff did not require in-patient psychiatric hospitalizations during the period at issue. Tr. 29.
18 While in some visits Dr. Bartels found Plaintiff stable, in many visits she adjusted his medication
19 or noted symptoms persisted. *See, e.g.*, Tr. 584 ("Consider decreasing" medication), 587
20 ("residual paranoia on current medications"), 1131 ("Dosage increase"), 1138 ("Dosage
21 decrease"). In any case, being stable, or unchanging, does not contradict Dr. Bartels' opinions of
22 remaining symptoms. Regarding the lack of hospitalization, the ALJ offered no explanation or
23

1 evidentiary support for why this would contradict Dr. Bartels' opinions. Symptoms can be
2 serious enough to markedly limit work activities without requiring hospitalization.

3 Inconsistency with the medical evidence was not a valid reason to discount Dr. Bartels'
4 opinions.

5 **b) Activities**

6 The Commissioner cites part-time work delivering food, walking, meditating, working on
7 a book, doing yoga, driving, exercising, studying, spending time with others and at a Buddhist
8 temple and Canadian monastery, but fails to offer any explanation for how any of these activities
9 contradict Dr. Bartels' opinions. Dkt. 11 at 9. There is no indication in the record Plaintiff
10 engaged in any of these activities at a frequency or degree contradicting Dr. Bartels' opinions.
11 Conflict with Plaintiff's activities was not a valid reason to discount Dr. Bartels' opinions.

12 The Court concludes the ALJ erred by discounting Dr. Bartels' opinions.

13 **3. Geordie Knapp, Psy.D.**

14 Dr. Knapp examined Plaintiff in September 2019 and opined he was unable to sustain
15 punctual attendance, effective communication and performance, and completion of a normal
16 work day and week. Tr. 1208. Dr. Knapp also opined marked limitations in adapting to
17 changes, requesting assistance, and maintaining appropriate behavior. *Id.*

18 The ALJ found Dr. Knapp's opinions "unpersuasive" as unsupported by his own
19 examination, based on inaccurate information, and inconsistent with improvement with
20 medication, unremarkable objective findings, and Plaintiff's activities. Tr. 29.

21 Dr. Knapp observed abnormalities in speech, attitude and behavior, mood, affect, thought
22 process and content, memory, and insight and judgment. Tr. 1210. The ALJ found, however,
23 Dr. Knapp's findings of normal appearance, orientation, perception, fund of knowledge,

1 concentration, and abstract thought justified “less limited” functioning than Dr. Knapp opined.
2 Tr. 29. However, merely listing the normal and abnormal findings does not explain why the ALJ
3 considered the normal results more significant. *See Reddick v. Chater*, 157 F.3d 715, 725 (9th
4 Cir. 1998) (“The ALJ must do more than offer his conclusions. He must set forth his own
5 interpretations and explain why they, rather than the doctors’, are correct.”). Given Plaintiff’s
6 undisputed schizophrenic disorder, Dr. Knapp’s abnormal findings of “guarded” attitude and
7 “delusional” ideation appear far more relevant than his findings of normal hygiene and pleasant
8 demeanor. Tr. 1209. Conflict with his own examination findings was not a valid reason to
9 discount Dr. Knapp’s opinions.

10 The ALJ noted Dr. Knapp’s clinical interview notes inaccurately state Plaintiff was
11 hospitalized in May or June of 2019. *See* Tr. 1206. While the date is inaccurate, Plaintiff had in
12 fact experienced recent hospitalizations, in June 2018 and October to November 2018. Tr. 346,
13 575. The ALJ failed to explain how knowing the accurate dates would have altered Dr. Knapp’s
14 opinions. This was not a valid reason to discount Dr. Knapp’s opinions.

15 The ALJ also discounted Dr. Knapp’s opinions based on the same evidence discussed
16 above of improvement with treatment, objective medical evidence, and Plaintiff’s activities. Tr.
17 29. For the same reasons discussed above, these were not valid reasons to discount Dr. Knapp’s
18 opinions.

19 The Court concludes the ALJ erred by discounting Dr. Knapp’s opinions.

20 **B. Lay Witness Statement**

21 Plaintiff’s father filled out a Function Report in April 2019 and an Assessment Form in
22 July 2020. Tr. 246-53, 286-88. Plaintiff’s father reported Plaintiff has “poor judgment
23 recognizing mistakes [He] often totally misunderstands what is being said or discussed” and

1 becomes “very angry and confrontational [and] has to be asked to leave the room.” Tr. 286-87.
2 He reported, when Plaintiff performs a task, he “works very slow and takes excessive number of
3 breaks[.]” Tr. 287. Plaintiff’s father stated Plaintiff “has no social judgment [and thus] cannot
4 distinguish between what is acceptable and what is not[.]” Tr. 288. He reported Plaintiff
5 “isolate[s] for 1-2 weeks when symptoms are worse.” Tr. 249. Plaintiff reads, but he questions
6 Plaintiff’s understanding. Tr. 250.

7 The Commissioner concedes the ALJ erred by stating she was “not required to articulate”
8 how she considered Plaintiff’s father’s statements. Tr. 30. The Commissioner contends the error
9 is harmless because Plaintiff does not challenge the ALJ’s reasons for rejecting his testimony,
10 which apply equally to his father’s statements. Dkt. 11 at 11. However, much of Plaintiff’s
11 father’s testimony differed from Plaintiff’s. The ALJ summarized Plaintiff’s testimony as loss of
12 interest in past hobbies, periods of “two to three days in which he experiences delusional
13 thinking,” “thinking people are talking about him,” and periods of being “extremely hyper” and
14 periods of “low energy.” Tr. 24. Plaintiff’s father’s statements differ in many respects, such as
15 in assessing poor judgment and observing Plaintiff become angry and confrontational. The ALJ
16 reasonably rejected Plaintiff’s testimony as unreliable. However, Plaintiff’s father’s statements
17 offer evidence it is Plaintiff’s impairments that make him unreliable.

18 The Court concludes the ALJ harmfully erred by failing to address Plaintiff’s father’s
19 statements.

20 **C. Scope of Remand**

21 Plaintiff requests remand for an award of benefits or, alternatively, for further
22 administrative proceedings. Dkt. 10 at 18-19. Remand for an award of benefits “is a rare and
23 prophylactic exception to the well-established ordinary remand rule.” *Leon v. Berryhill*, 880

1 F.3d 1041, 1044 (9th Cir. 2017). To award of benefits, after finding the ALJ rejected evidence
 2 without legally sufficient reasons, the Court would have to conclude “the record has been fully
 3 developed [and] there are [no] outstanding issues that must be resolved before a determination of
 4 disability can be made[.]” *Treichler v. Comm’r of Soc. Sec. Admin.*, 775 F.3d 1090, 1101 (9th
 5 Cir. 2014) (internal citations and quotation marks omitted). Only if these first two steps are
 6 satisfied does the Court determine, “if the improperly discredited evidence were credited as true,
 7 the ALJ would be required to find the claimant disabled on remand.” *Garrison*, 759 F.3d at
 8 1020. Plaintiff has not shown all conflicts in the record have been resolved. Dr. Bartels’ and Dr.
 9 Knapp’s opinions conflict with the opinions of State agency non-examining doctors John F.
 10 Robinson, Ph.D., and Renee Eisenhauer, Ph.D. Tr. 80-81, 97-99. Because the prerequisites to
 11 remand for benefits have not been established, the Court concludes remand for further
 12 proceedings is appropriate.

13 CONCLUSION

14 For the reasons above, the Court **REVERSES** the Commissioner’s final decision and
 15 **REMANDS** the case for further administrative proceedings under sentence four of 42 U.S.C. §
 16 405(g). On remand, the ALJ shall reevaluate Dr. Bartels’ and Dr. Knapp’s opinions and
 17 Plaintiff’s father’s statements, reconsider at step three whether Plaintiff’s impairments meet or
 18 equal a listed impairment, develop the record and redetermine RFC as needed, and proceed to
 19 step five as necessary.

20 DATED this 25th day of August 2021.

21
 22 
 23 BRIAN A. TSUCHIDA
 United States Magistrate Judge